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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,322	01/18/2002	Frederic P. Field	ONUX-13	7967
7590	02/13/2004		EXAMINER	
Pandiscio & Pandiscio 470 Totten Pond Road Waltham, MA 02451-1914			ROBERTS, PAUL A	
			ART UNIT	PAPER NUMBER
			3731	/D
DATE MAILED: 02/13/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/051,322	FIELD ET AL.	
	Examiner	Art Unit	
	Paul A Roberts	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 19 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-34 is/are pending in the application.
 - 4a) Of the above claim(s) 10-28,30-32 and 34 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6,9,29 and 33 is/are rejected.
- 7) Claim(s) 7 and 8 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 September 2002 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) Interview Summary (PTO-413) Paper No(s) _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Election/Restrictions

1. Based upon the applicant's traversal that there is no patentable distinction between an arc-shaped groove and a V-shape groove, claim 2 has been added to the list of elected claims. Currently, claims 1-9, 29, and 33 are pending. Claims 10-28, 30-32, and 34 are withdrawn from further consideration.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the element, "additional peripheral grooves", must be shown or the feature(s) canceled from the claim(s). This element is claimed in claims 7 and 8. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Buelna 5489288. Buelna discloses a surgical tool that passes an elongated element (30) through a portion of a subject (this would be accomplished when the tool is used to ligate a piece of tissue). The device comprises a structure for retaining the suture (element 20 retains suture 163). The advancement means is shown as 42. The drive wheel is element 40. The wheel contains a groove, which receives the elongated element and provides increased contact area between the drive wheel and the elongated element. The advancement means is capable of driving a suture through a portion of tissue. The follower wheel is element 44. The follower wheel has a peripheral groove therein corresponding to the peripheral groove of the drive wheel. The reason the groove is considered corresponding is because the groove has a similar function or a 'corresponding' function. Thus it is a groove, which corresponds to the groove in the drive wheel.

4. Claims 1-6, 9, 29, and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Stefanchik et al (Stefanchik) 6,187,019. Stefanchik discloses a surgical tool that passes an elongated element (163 and 162 comprise the flexible element) through a portion of a subject. The device comprises a structure for retaining the suture (element 62 retains suture 163). The advancement means comprises 70 and 71. The drive wheel is element 70. The wheel contains a groove, which receives the elongated element and provides increased contact area between the drive wheel and the elongated element.

5. Regarding claims 2-4, the peripheral grooves are arc-shaped to fit the springs 162 and 160. The shape of the grooves is considered to be generally V-shaped. The grooves appear to be

structured so they can be part of a hypothetical circle which has a diameter less than the elongated elements.

6. Regarding claims 5 and 6, element 70 is the drive wheel. Element 71 is the follower wheel. The follower wheel is capable of being used in cooperative operation with the drive wheel. The peripheral wheel contains a corresponding groove.
7. Regarding claim 29, the drive wheel is the driving means.
8. Regarding claim 33, the driving means is positioned adjacent the distal end of the device.

Allowable Subject Matter

9. Claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: the examiner did not find, "A surgical suturing tool comprising a roller that has more than one groove wherein said grooves are of varying size so different thicknesses of threads can fit through the rollers," in combination with the limitations of claim 1.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 5755728 A	Suture apparatus with loop end portions
US 3722309 A	Multiple Groove Sheave
US 3339860 A	Rotating control device

US 5792152 A Device and method for suturing of internal puncture sites
US 4890615 A Arthroscopic suturing instrument
US 3584628 A Wire Suture Wrapping Instrument
US 20030023250 A1 Surgical suture passers and methods
US 5334199 A Ligating instrument and methods of ligating tissue in endoscopic operative procedures

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A Roberts whose telephone number is (703) 305-7558. The examiner can normally be reached on 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J Milano can be reached on 703-308-2496. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Paul Roberts
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01/26/04



MICHAEL J. MILANO
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